Supreme Court, U.S.
FILED
JUN 16 1986
JOSEPH F. SPANIOL, JR.
CLERK

85-2059

No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Rainsford J. Winslow
Petitioner,

v.

Board Of Morgan County Commissioners
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT STATE OF COLORADO

Presented by:
Rainsford J. Winslow, Pro Se
Morgan Heights, P.O. Box 250
Fort Morgan, Colorado 80701
Phone: (303) 867-6201

E. Ord Wells, Esquire
Representing:
Board Of County Commissioners
229 East Kiowa Avenue
Fort Morgan, Colorado 80701

QUESTIONS PRESENTED

1. Did the Colorado Supreme Court err in prohibiting Winslow from filing any actions as a Pro Se Plaintiff in any Court in the Colorado 13th Judicial District FOREVER, without any chance of getting this right back? U.S. Const., Art. I, redress of grievances.

2. Did the Colorado Supreme Court err in permitting the Colorado Court of Appeals to enlarge the Judgment of the Honorable Dean Johnson, who by his JUDGMENT restricted Winslow from filing any Pro Se Plaintiff actions ONLY in the Morgan County District Court, and did not extend the restriction to other Courts in the Colorado Judicial District? U.S. Const., Art. I, redress of grievances.

3. Did the Colorado Supreme Court err in making up new law to govern self representation of parties wanting to be a Pro Se Plaintiff in the Colorado Court system? U.S. Const., Art. I, redress of grievances.

4. Did the Colorado Supreme Court err in not following Federal Statute 28 USC 1654, which is the prevailing statute regarding self representation, since there are no Colorado Statutes going to self representation? U.S. Const., Art. I, redress of grievances.

5. Did the Colorado Supreme Court err in prohibiting six other men, not counting Petitioner Winslow, from utilizing the Colorado Court system in different degrees? U.S. Const., Art. I, Art. V, Art. XIV, redress of grievances, due process, and equal protection.

6. Did the Colorado Supreme Court err in not citing any Federal case that gives the authority to take away the rights of a person to represent himself/herself as a Plaintiff in a Colorado Court FOREVER, without opportunity of re-establishing the access to the Court system right? U.S. Const., Art. I, Art. XIV, redress of

grievances and equal protection.

7. Did the Colorado Supreme Court err in not following the Common Law, which indicates that all States come under Federal law? U.S. Const., Art. I, Art. XIV, redress of grievances, equal protection.

8. Did the Colorado Supreme Court err in stating that the rights of Winslow and six other parties, (who have been denied access to the Colorado Court system as Pro Se Plaintiffs in various degrees), do in fact still have Court access if they hire lawyers? U.S. Const., Art. I, Art. V, and Art. XIV, redress of grievances, due process, and equal protection.

9. Did the Colorado Supreme Court err in ruling that Winslow judicially abused the Morgan County District Court, when in actuality he was not abusing the Court? U.S. Const., Art. I, Art. XIV, redress of grievances, equal protection.

Attorney General Notice

The Colorado Attorney General will be given notice as to the possible unconstitutionality of the Colorado Supreme Court's decision of 31 Mar 86, which said that Petitioner Winslow abused the judicial system in Morgan County with his filing of voluminous and irrelevant pleadings as a Pro Se Plaintiff. As per Title 28 USC 2403(b), the Colorado Attorney General will be served three copies of this Petition.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
Attorney General Notice	iv
OPINIONS/ORDERS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	3
ARGUMENTS	9
LEGAL ARGUMENTS	12
Federal Courts And Pro Se's . .	20
REASONS FOR CONSIDERING CERTIORARI	25
VERIFICATION	28

BEST AVAILA

INDEX TO APPENDICES

Page

APPENDIX A -- Order Of The Court issued by the Colorado Supreme Court, denying Petition For Writ of Certiorari, March 31, 1986.. . . 1-A

APPENDIX B -- Order Of The Court Striking Petition To The Colorado Court Of Appeals for Certiorari, from The Colorado Supreme Court, April 16, 1986 . . . . . 1-A

APPENDIX C -- Appeal From The District Court Of Morgan County issued by the Colorado Court of Appeals, Affirming Judgment, January 9, 1986 . . . . . 2-A

APPENDIX D -- Judgment reversed by The Colorado Court of Appeals, August 25, 1983 5-A

APPENDIX E -- Judgment issued by The District Court Of Morgan County, Colorado, enjoining Respondent from further actions Pro Se as a Plaintiff, March 3, 1982 . . . . . 10-A

APPENDIX F -- Order issued by the District Court of Morgan County, Colorado, enjoining Respondent from further Pro Se Plaintiff actions in District Court, April 2, 1982 . . . . . 11-A

BLE COPY

TABLE OF AUTHORITIES

	Page
Baltimore & Ohio Railroad v. Baugh, 149 U.S. 368 (1893)	14
Board of County Commissioners of The County of Boulder v. Donald James Barday, 594 P.2d 1057 (Colo. 1979)	16, 23
Burdick v. Burdick, 267 P. 767 (Wash. 1928)	18
Board of County Commissioners of The County of Weld v. H. Gordon Howard, 640 P.2d 1128 (Colo. 1982)	16, 23
Board of County Commissioners v. Winslow, Colo. Ct. App., Case No. 82 CA 0417	16, 23
Conley v. Gibson, 355 U.S. 41 (1957)	22
Eismann v. Miller, 619 P.2d 1145 (Idaho 1980)	21
Green, Rev. Clovis Carl, Jr., 669 F.2d 779 (1981)	22, 25
Haines v. Kerner, 404 U.S. 519 (1972)	22
Harry Franklin v. State of Oregon, 563 Fed. Supp. 1310 (1983)	20, 23, 25
McCulloch v. Maryland, 4 Wheat U.S. 316 at 403	13
Miller v. Johnson, 541 Fed. Supp. 1155 (1982)	21, 23

Page

Pavilonis v. King, 626 F.2d 1975 (1st. Cir. 1980) 18

People of The State of Colorado v. Wallace Dunlap and Perry Dunlap, 623 P.2d 408 (Colo. 1981) 16, 23

People of The State of Colorado v. Sherron F. Spencer, 524 P.2d 1084 (Colo. 1974) 15, 23

Shotkin v. Kaplan, 180 P.2d 1021 (Colo. 1947) 15, 23

Shutt v. Moore, 613 P.2d 118 (Wash. App. 1980) 18

Sperry v. Florida, 373 U.S. 379 (1963) 24

Western Life Insurance Co. v. Dan Nanney, et al., 296 Fed. Supp. 432 (Tennessee 1959) . . 24

Whatcom County v. Kane, 640 P.2d 1075 (Wash. 1981) 18, 19

COLORADO/FEDERAL STATUTES

28 USC 2403(b) . . . . . iv, 3

28 USC 1257 . . . . . 1, 3

28 USC 1654 . . . . . .3, 13, 24

42 USC 1983 . . . . . 3, 11

18 USC 241 11

18 USC 242 11

Page

C.A.R. 21 5

CRCP 60(b) 10

UNITED STATES CONSTITUTION

First Amendment (in relevant part) . . . . . i, ii, iii 1, 9, 11, 15, 23, 26

Fifth Amendment (in relevant part) . . . . . .ii, iii, 1, 11, 26

Ninth Amendment (in its entirety) 2, 26

Fourteenth Amendment (in relevant part) . . . . . .ii, iii, 1, 11, 23, 26

COLORADO CONSTITUTION

Article II, Section 6 . . . . . 8, 15

Article II, Section 24 15

APPENDIX AUTHORITIES

Board of County Commissioners v. Barday, 197 Colo. 519, 594 P.2d 1057 (1979) 6-A

Board of County Commissioners v. Howard, 640 P.2d 1128 (Colo. 1982) 6-A

People v. Dunlap, 623 P.2d 408 (Colo. 1981) 6-A

Board of County Commissioners v. Winslow, 706 P.2d 792 (Colo. 1985) 3-A

PETITION FOR WRIT OF CERTIORARI

TO THE SUPREME COURT

STATE OF COLORADO

Petitioner Rainsford J. Winslow prays that a Writ of Certiorari will be issued to review the ORDER of the Supreme Court of Colorado dated 31 Mar 86. This ORDER, which denied certiorari, upheld the decision of the Colorado Court of Appeals. The PETITION FOR REHEARING was stricken on 16 Apr 86.

OPINIONS/ORDERS BELOW

The Colorado Supreme Court ORDER, which denied certiorari, upheld the Colorado Court of Appeals regarding Petitioner Winslow's alleged abuse of the Morgan County District Court. (Appendix A) The Petition For Rehearing to the Colorado Supreme Court was stricken on 16 Apr 86. (Appendix B).

JURISDICTION

The jurisdiction of the Supreme Court of the United States is invoked under Title 28 USC 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. United States Constitution:

First Amendment (In relevant part):

"Congress shall make no law respecting an establishment . . . to petition the government for a redress of grievances."

Fifth Amendment (In relevant part):

"No person shall be . . . deprived of life, liberty, or property without due process of law . . ."

Ninth Amendment (In its entirety):

"The enumeration of the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Fourteenth Amendment (In relevant part):

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

2. Federal Statutes:

Titles 28 USC 1654, 28 USC 1257, 42 USC 1983, 28 USC 2403(b).

STATEMENT OF THE CASE

1. On 28 Jan 74, the Morgan County Commissioners, Morgan County, Colorado, authorized the acceptance of the Morgan Heights Second Addition of the Winslow Subdivision for filing, and it was at that point zoned for Multi-Family, a high density designation.

2. In June of 1975, a year plus later, the commissioners "rezoned" Morgan Heights to Rural Residential, a low housing density designation, which dropped the value approximately 75%. This action was approved by Morgan County Attorney E. Ord Wells, who at the time was in conflict of interest since he was Agent/Managing Partner for the Three Lakes Development property, adjoining Morgan Heights on the east.

3. Subsequently, Winslow attempted to

disqualify Attorney Wells from any actions regarding Morgan Heights because of this conflict. He would not take himself off the case, nor would the Morgan County Commissioners remove him.

4. The Winslows attempted to get this zoning designation changed and in June of 1979, a lawsuit was filed against the commissioners and the land was quickly rezoned back to Multi-Family.

5. Winslow filed a Pro Se lawsuit against the Morgan County Commissioners in November of 1980 because he felt the NOTICE regarding the amending of subdivision and zoning regulations was in violation of Colorado Statutes.

6. In November of 1981, Morgan County won a Summary Judgment against Winslow on the NOTICE Pro Se lawsuit, but Winslow appealed this to the Colorado Court of Appeals, the Colorado Supreme Court, and the United States Supreme Court. The NOTICE was

determined to be sufficient.

7. On or about 5 Feb 82, Winslow filed another Pro Se lawsuit against the Morgan County Ccmmissioners because he alleged that the zoning and subdivision regulations were adopted in violation of Colorado Statutes. On or about 15 Feb 82, the Morgan County Commissioners, through County Attorney Wells, filed an injunctive action to prevent Winslow from representing himself Pro Se as a Plaintiff before Judge Dean Johnson, who ruled that Winslow was abusing the system and required that if he wanted to continue with the zoning case, he would have to hire an attorney.

8. Winslow filed an Original Proceeding under C.A.R. 21 in the Colorado Supreme Court regarding the Judge Johnson Judgment. The Petition was denied. He then filed a Pro Se appeal in the Colorado Court of Appeals, and on or about 1 Aug 83, the Colorado Appeal Court reversed Judge Johnson,

indicating the Trial Court had no jurisdiction on such matters, which could only come from the Colorado Supreme Court.

9. All the time this was going on, Winslow did hire an attorney at a cost of about $1,900 to pursue the illegal adoption of the Morgan County zoning/subdivision regulations, and he won, through the attorney, a Summary Judgment against Morgan County, which had violated the law. Morgan County appealed and Winslow, as Pro Se Appellee, had the Judgment affirmed.

10. Up until Morgan County filed the action against Winslow to prevent him from representing himself, Winslow had only three Plaintiff cases against Morgan County. He prevailed on two of them, and the one he lost, he took all the way to the U.S. Supreme Court, which denied certiorari.

11. In summary, Winslow was not abusing the system, he was utilizing the system to protect himself from the arbitrary and

capricious actions of the Morgan County Commissioners, led by Morgan County Attorney Wells, who was in conflict of interest with his competing and adjoining development property east of Morgan Heights.

12. Without elaborating, Winslow believes that he contributed to the developers of Morgan County by this action, since in his opinion, had the subdivision and zoning regulations remained unchallenged, it would have virtually stopped development within Morgan County.

13. The Morgan County Commissioners, through County Attorney Wells and the Denver law firm of Montgomery, Young, Little, Campbell, & McGrew, filed a Petition For Certiorari in the Colorado Supreme Court, which was granted. The issue was: "Did the Colorado Court of Appeals err by stating the Colorado Supreme Court was the only Court having jurisdiction over a Pro Se Plaintiff using a Colorado District Court?

Did not the 103 District Judges have such jurisdiction?"

14. On 30 Sep 85, the Colorado Supreme Court ruled that it did not have exclusive jurisdiction and that Colorado District Courts were in a better position to observe legal abuses of Pro Se Plaintiffs and could stop them from appearing Pro Se in Colorado District Courts. Justice Jean Dubosky, who wrote the Opinion, said that this was not a denial of a person's access to the Court system as per Colorado Const., Art. II, Section 6, going to Equality of Justice, since said Pro Se Plaintiff could proceed with an attorney. Winslow took this to the U.S. Supreme Court, which denied certiorari.

15. The issue regarding Winslow's representation in Morgan County was still not resolved and the Dubosky Opinion remanded that issue back to the Colorado Court of Appeals which affirmed the Judgment issued

out of the Morgan County District Court, but it did more than that.

16. The Colorado Court of Appeals now restricts Winslow from filing any action in the Colorado 13th Judicial District, when the JUDGMENT of Judge Johnson only restricted Winslow from filing cases in Morgan County. (How can a Court of Appeals build upon a Judgment in a District Court?)

17. Winslow took this to the Colorado Supreme Court in February of 1986 and the Colorado Supreme Court denied certiorari on 31 Mar 86. This Petition is appealing the certiorari denial by the Colorado High Court.

ARGUMENTS

18. Winslow has utilized the Colorado Court system a number of times to redress grievances as provided by the U.S. Const., Art. I. Once he filed an action to collect a $10,000 Promissory Note and won a Judgment and collected. Another time he filed an action against officials with the Colorado

Department of Health for imposing an $18,000 fine, which he felt was improper. Thirty days after the filing of the lawsuit against the Health Department Officials, all charges were dropped and Winslow settled, which was his sole purpose for the lawsuit.

19. Winslow and his wife were "jerked around" by the Morgan County Planning Commission, and this forced Winslow to file another Pro Se lawsuit against them,and the Trial Court Judge said the Commission was "arbitrary and capricious," and issued an Order requiring the approval of the Morgan Heights Third Additon final plat.

20. The biggest victory of all was on the big Morgan Heights case, which is now starting into the eighth year. The Winslows filed a Pro Se Plaintiff lawsuit in Washington County District Court, Akron, Colorado on 1 Oct 84, an independent action taken as per CRCP 60(b), going to the alleged lack of jurisdiction of the original

Trial Court Judge in the Morgan County Case No. 79 CV 97, which started 21 Jun 79.

21. Winslow and his wife, both Pro Se, prevailed on this case and voided approximately $400,000 worth of Judgments. They weren't abusing the system, the system was abusing them.

22. It is argued that the Colorado Supreme Court, nor any other Court in Colorado,has the authority to stop anybody from filing a lawsuit as a Plaintiff. Seven Justices have been doing this since 1947, and now 103 District Judges have this power, which is believed to be violations of the U.S. Const., Art. I, Art. V, and Art. XIV, PLUS a violation of Title 42 USC 1983, and could even be alleged to be a violation of Titles 18 USC 241 and 18 USC 242, which goes to conspiracy/deprivation of rights under color of law. (Also Title 28 USC 1654)

23. Winslow has researched the matter of self representation and denial of use

of the Courts in other States and in Federal Courts, but not one single Court has ever prevented anybody from self representation as a Plaintiff FOREVER. This is what has happened and will continue to happen in Colorado unless this U.S. Supreme Court reverses the Colorado Supreme Court.

24. Even a drunk driver, a drug dealer, a murderer is given a second chance, but not a Pro Se Plaintiff if his name happens to be Barday, Wallace Dunlap, Harry Dunlap, Shotkin, Spencer, or Winslow. These are the seven men who have been forbidden to use Colorado District Courts on one basis or another.

LEGAL ARGUMENTS

25. According to the Supreme Court of The United States, the laws of each State consist of the Constitution of The United States and the laws and treaties made under it, and the constitution statutes and common law of the State. The Constitution of The

United States and the laws made under it are the laws of the State because they were expressly adopted by the people of the State. McCulloch v. Maryland, 4 Wheat. (U.S. 316 at 403)

26. In the State of Colorado, there is no statute that covers the Pro Se litigant's opportunity to use District Courts as a Pro Se Plaintiff. On the other hand, the United States law covers this by Federal Statute under Title 28 USC 1654, which follows in its entirety:

> Title 28 USC 1654
> Appearance Personally Or By Counsel
> In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as the rules of such court, respectively are permitted to manage and conduct causes therein.

27. The Colorado Supreme Court is not empowered to make laws, it is only empowered to interpret the law. However, in the case of Winslow and others so affected by what is believed to be arbitrary and capri-

cious actions by the Colorado Supreme Court, they in fact DID make law, which is beyond their authority.

28. A significant Supreme Court of The United States case explains that it is not the duty of the State Court at any level to make law. The State Courts have authority to interpret the law. Here is the citation from Baltimore & Ohio Railroad v. Baugh, 149 U.S. 368 (1893):

> In the ordinary use of language it will hardly be contended that decisions of courts constitute laws. They are, at most, only evidence of what the laws are, and are not, of themselves laws. They are often re-examined, reversed, and qualified by the courts themselves, whenever they are found to be either defective, or ill founded, or otherwise incorrect. The laws of the state more usually understood to mean the rules and enactments promulgated by the legislative authority thereof, or long established local customs having the force of laws.

29. By the decision made by the Colorado Supreme Court, they did in fact MAKE LAW,

that is contrary to the U.S. Constitution, Art. I, going to redress of grievances and the Colorado Constitution, going to redress of grievances and access to the Colorado Courts. Both of these portions of the Colorado Constitution follow in their entirety:

> Art. II, Section 24
> Right To assemble And Petition
> The people have the right peaceably to assemble for the common good and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

> Art. II, Section 6
> Equality Of Justice
> Courts of justice shall be open to every person, and a speedy remedy afforded for every injury to person, property, or character; and right and justice should be administered without sale, denial or delay.

30. Here are the seven cases that prevented various men from representing themselves Pro Se as Plaintiffs in Colorado District Courts, most with different conditions: Shotkin v. Kaplan, 180 P.2d 1021 (Colo. 1947); People of The State of Colo-

rado v. Sherron F. Spencer, 524 P.2d 1084 (Colo. 1974); Board of County Commissioners of The County of Boulder v. Donald James Barday, 594 P.2d 1057 (Colo. 1979); The People of The State of Colorado v. Wallace Dunlap and Perry Dunlap, 623 P.2d 408 (Colo. 1981); The Board of County Commissioners of The County of Weld v. H. Gordon Howard, 640 P.2d 1128 (Colo. 1982); and Board of County Commissioners v. Winslow, Colorado Court of Appeals Case No. 82 CA 0417.

31. Colorado lawyers are not prevented from filing any type lawsuits in any way. If such a lawsuit were filed and determined to be frivolous and groundless, it could easily be dismissed. The lawyer bringing the frivolous/groundless lawsuit would not be prevented from using the system for a client again. The treatment given Shotkin, Spencer, Barday, the Dunlap brothers, Howard, and Winslow is not "equal protection under the law."

32. Yes, these parties can file lawsuits with attorneys, but what about the Pro Se Plaintiff who has a meritorious grievance and no money to hire an attorney? This "no money issue" is not addressed by the Colorado Supreme Court and is believed to be arbitrary and capricious. Winslow feels he was trampled upon by a competing land developer with political power which he utilized on what could be alleged to have been a "buddy-buddy" basis in his relationship with Judge Johnson. (They are both members of the Morgan County Bar Association and members of the Fort Morgan Country Club. Winslow belongs to neither group.)

33. In the Winslow case, the Colorado Supreme Court, in their Opinion of 30 Sep 85, specifically instructed the Colorado Court of Appeals to look at what Winslow did in the Morgan County District Court to have spawned the self representation law-

suit. The Court case suggested by this Opinion is Whatcom County v. Kane, 640 P.2d 1075 (Wash. 1981). Here is a significant citation from this case:

> On the question of the power of the trial court to issue the broad injunctive relief granted in this case, we are aware that such authority exists where sufficient facts are proved. Burdick v. Burdick, 267 P. 767 (Wash. 1928). Proof of mere litigiousness will not support an injunction, see Pavilonis v. King, 626 F.2d 1975 (1st Cir. 1980), but some injunctive relief may be appropriate if the County makes a specific and detailed showing of a pattern of abusive and frivolous litigation. (Many citations omitted.) The Trial Court must be careful not to issue a more comprehensive injunction than is necessary to remedy proven abuses, and if appropriate the court should consider less drastic remedies. . . . As we said in Shutt v. Moore, 613 P.2d 118 (Wash. App. 1980),"[a] cornerstone of our constitutional system is the right of all citizens to place their grievances before a court of law . . ."

34. In this case of Whatcom County v. Kane, supra, the Court of Appeals of Washington said that Pro Se Julius Kane did

not abuse the system, but he was abused BY the system.

35. Under no theory did Judge Johnson give any detailed pattern of abusive and frivolous litigation, which was required in Whatcom County, supra. All that Judge Johnson found was that Winslow's pleadings were laced with irrelevant material and were voluminous. This could be said of virtually any lawyer's pleadings. This Petition is appealing the certiorari denial by the Colorado High Court.

36. In checking the Opinion of the Colorado Court of Appeals of 9 Jan 86 and the Morgan County District Court JUDGMENT dated 3 Mar 82, it will be noted that the Colorado Court of Appeals restricted Winslow in the entire Colorado 13th Judicial District, when the Morgan County Opinion only restricted Winslow from filing lawsuits in the Morgan County District Court. There is no such authority for such actions by the Colorado

Court of Appeals.

Federal Courts And Pro Se's

37. Most Pro Se Plaintiff lawsuits in Federal Courts are filed by convicts residing in Federal and State prisons as per Title 28 USC 1654, which has previously been cited. To show the leniency of Federal Courts and how Pro Se Plaintiffs in prisons are treated, there is one classic case that should be cited. It is Harry Franklin v. The State Of Oregon, 563 Fed. Supp. 1310 (1983). This man has filed 140 cases as a Pro Se Plaintiff, and here is a summary of a few of them:

A. Franklin sues prison guards who allegedly wear clopping heels on their boots, which causes him to feel he is in a "Natsy [sic] prison camp." Frivolous, malicious--dismissed.

B. Franklin complains that the Southern Pacific Transportation Company or the Burlington Northern Railroad Company blow their whistles as they pass the Oregon State Penitentiary in early morning hours and violates his "right to public

piece [sic]." Frivolous, dismissed.

C. Franklin complains that the lack of an elevator at the prison has kept him away from church services that are held on the upper floors. Case dismissed as frivolous.

38. Each case was for anywhere from $1 million up to $100 million, but every now and then, Franklin would win a few. What happened to him? Judge James M. Burns restricted him to six Pro Se lawsuits per year, which would be on a forma pauperis basis. If he filed more than that, he would have to pay all of the fees. Judge Burns reasoned that this would make Franklin more cautious on the six cases he did file each year.

39. In further analysis of Pro Se Plaintiff cases, there is Miller v. Johnson, 541 Fed. Supp. 1155 (1982). Without going into the merits of the case, Miller et al had filed numerous cases against judges and others in Idaho. (Eismann v. Miller,

619 P.2d 1145, Idaho 1980). The bottom line was that Circuit Judge MacKinnon ruled that he would not take away their right to represent themselves, but would be inclined to consider such action if the parties continued abusive lawsuits. Two U.S. Supreme Court cases back up this position stating that Pro Se parties should be given sympathetic consideration so as to advance substantial justice. Haines v. Kerner, 404 U.S. 519 (1972); Conley v. Gibson, 355 U.S. 41 (1957).

40. Another case concerns Rev. Clovis Carl Green, Jr., 669 F.2d 779 (1981). He was in prison for the previous ten years and during this time filed between 600 and 700 complaints in Federal and State Courts. All cases were forma pauperis. Finally, Green was limited to getting permission from a U.S. District Court to take any Pro Se action he might want to file. It had to be a bona fide claim as defined by the

Court. If Green didn't follow this Order, he could be in contempt of Court.

41. In not one single Federal case that Winslow was able to find, were any parties stopped cold from filing Pro Se Plaintiff lawsuits. In Franklin, supra, Green, supra and Miller v. Johnson, supra, there were certain restrictions, but nobody was denied the right to use the Courts.

42. In the six Colorado cases, there was no "reprieve," nor any way of getting the rights to the Court system reinstated, unless the party would use a lawyer, and that's where the violation comes in going to the U.S. Const. Art. I, redress of grievances; and Art. XIV going to equal protection.

43. It is also interesting to note that in the six Colorado cases (Shotkin, Spencer, Barday, Dunlap, Howard, and Winslow) there was not one single Federal case cited, and had they been cited, there could have

been some sort of relief to a Pro Se Plaintiff for reinstatement of his rights to use the Courts. Federal Courts are specifically open to anyone on a Pro Se basis anytime.

44. Federal Statute Title 28 USC 1654 which goes to self representation, has great affect in State Courts. In Western Life Insurance Co. v. Dan Nanney, et al., 296 Fed. Supp. 432 (Tennessee 1959) there is this citation:

> [No] provision of Tennessee law (or Colorado law) regulating the practice of law in the state courts could obstruct in any way such practice under the rules of a federal court, 28 USC § 1654. In the light of any incompatibility between Tennessee law (or Colorado law) and the aforecited federal statute, state law must yield to the federal legislation. Sperry v. Florida, 373 U.S. 379 (1963).

45. What this means is that if there is a conflict in laws between State law and Federal law, Federal law prevails. The Dubosky Opinion from the Colorado Supreme Court and previous Colorado High

Court decisions, violates this self representation statute. It certainly could be argued that this one point in this Petition is sufficient to reverse what the Colorado Supreme Court did on 30 Sep 85 in this instant case.

REASON FOR CONSIDERING CERTIORARI

46. Outside of Colorado, even in State Courts, Winslow could find no case that forbids anybody from completely being stopped from filing Pro Se lawsuits. Some Federal cases gave restrictions as in Franklin, supra and Green, supra.

47. Certainly, litigants are not free to abuse the system and abuse Defendants, but this can be stopped in other ways, as just dismissing the case.

48. Colorado seems to be the only State that has the power of restraining FOREVER a Pro Se Plaintiff at the District Court level,which could be dangerous and could jeapordize somebody's rights to

use the Court system. There could be collusion between lawyers and judges in rare instances, and this should be prevented.

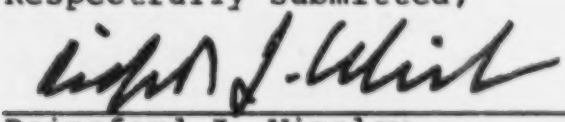
49. Colorado Supreme Court Justice Dubosky says this does not deprive a party of access to the Courts because that party can hire a lawyer. This doesn't hold water because a litigant might be bankrupt or could be without funds to hire a lawyer.

50. There are actually three main Amendments to the United States Constitution which are at issue in this case, namely Amendment I, V, and XIV, and to a lesser degree IX. No Court should have the power to deprive anybody of the right to file a Pro Se Plaintiff lawsuit in any Court in this nation. No judge at any level should have the discretion of being able to prohibit somebody from using any Court in any State.

51. Colorado is the only State Winslow could find which goes so far as to prohibit

certain parties from filing Pro Se Plaintiff lawsuits for whatever reason. The seven men cited are forbidden to utilize their full constitutional rights FOREVER, without having any hope of getting this right reinstated. This is the main reason why this U.S. High Court should grant certiorari.

Respectfully submitted,



Rainsford J. Winslow

E. Ord Wells, Esquire
Morgan County Attorney
229 East Kiowa Ave.
Fort Morgan, Colorado 80701

VERIFICATION

STATE OF COLORADO)
) ss.
COUNTY OF MORGAN)

RAINSFORD J. WINSLOW, of lawful age, being first duly sworn upon his oath, deposes and states as follows:

That he has read the foregoing PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT, STATE OF COLORADO, knows the contents thereof; and that the statements therein contained are true and correct to the best of his knowledge, information, and belief.

Rainsford J. Winslow

SUBSCRIBED AND SWORN TO BEFORE ME THIS 20th day of May, 1986.

WITNESS my hand and official seal.

My commission expires August 4, 1987.

Notary Public
Jean K. Nielsen
506 Deuel Street
Fort Morgan, CO 80701

(SEAL) NOTARY PUBLIC
STATE OF COLORADO
JEAN K. NIELSEN

APPENDIX A

Supreme Court, State Of Colorado

Rainsford J. Winslow, Petitioner v. BOARD OF MORGAN COUNTY COMMISSIONERS, Respondents. Colorado Supreme Court Case No. 86 SC 64.

Filed: March 31, 1986

Certiorari To The Colorado Court Of Appeals

Order Of The Court

Upon consideration of Writ of Certiorari to the Colorado Court of Appeals, and after review of the record, the briefs, and the opinion of the Court of Appeals,

It is this day ordered that said Petition for Writ of Certiorari shall be, and the same is hereby DENIED.

BY THE COURT EN BANC

Dated: March 31, 1986

Certified by:
Deputy Clerk
Janyne L. Roepke

APPENDIX B

Supreme Court, State Of Colorado

Rainsford J. Winslow, Petitioner, v. Board

Of Morgan County Commissioners, Respondent. Colorado Supreme Court Case No. 86 SC 64.

Filed: April 16, 1986

Certiorari To The Colorado Court Of Appeals

Order Of Court

Upon consideration of the Petition for Rehearing filed by Petitioner, Pro Se herein, and now being sufficiently advised in the premises,

It is This Day Ordered that said Petition shall be, and the same hereby is, Stricken.

BY THE COURT, APRIL 15, 1986

Certified by:
Deputy Clerk
K. Love

APPENDIX C

Colorado Court Of Appeals

The Board Of County Commissioners Of Morgan County, Colorado, Petitioner-Appellee, v. Rainsford J. Winslow, Respondent-Appellant. Colorado Court of Appeals Case No. 82 CA 0417.

Filed: January 9, 1986

Appeal From The District Court Of
Morgan County
Honorable Dean Johnson Judge

Judgment Affirmed

In accordance with the holding of the Supreme Court in Board of County Commissioners v. Winslow, 706 P.2d 792 (Colo. 1985), we address the issues raised by Winslow on appeal, including the question whether the district court of Morgan County abused its discretion in entering judgment against Winslow prohibiting him from appearing pro se. We conclude that no abuse of discretion occurred. Therefore, we do not address Winslow's remaining contentions.

In Board of County Commissioners v. Winslow, supra, the Supreme Court ruled that a district court, as a court of equity and general jurisdiction, has the power to enjoin a litigant from filing suits pro se within the district upon a finding of a serious abuse of judicial process.

Here, Morgan County filed a petition in the district court seeking to enjoin Winslow from prosecuting a pending action pro se

and from further pro se appearances in the Thirteenth Judicial District. The court granted the petition, ordering Winslow enjoined and restrained from filing any further pro se actions or pleadings in its judicial district.

We agree with the findings made by the district court in granting the injunction. In support of its decision, the district court made the following findings:

> "Winslow has appeared pro se before this court on many occasions . . . that his pleadings are usually extraordinarily voluminous and replete with irrelevant and immaterial matters; that the actions filed by Winslow, except for the latest, have all been determined adversely to him; that this latest action appears to be an attempt to raise an issue which is res ajudicate [sic] by reason of the Court's judgment in one of Winslow's prior suits; that Winslow's actions and methods of procedure impose a heavy burden on the resources of this Court . . . That the unwarranted burden placed on the operation of this Court due to Winslow's actions and the resultant expense thereof are prejudicial to the interests of the taxpaying public; that where it is necessary to prohibit such an abuse of the judicial process within this Court, it is within the power

and authority of this Court to prevent the further commission of the abuse and concomitant injury to public rights and interests . . . ."

There is ample justification for the district court's findings and conclusions, and we conclude that the district court did not abuse its discretion.

Judgment affirmed.

DIVISION I
Opinion by JUDGE BERMAN
Kelly and Metzger, JJ., concur

APPENDIX D

Colorado Court Of Appeals

The Board Of County Commissioners of Morgan County, Colorado, Petitioners-Appellees, v. Rainsford J. Winslow, Respondent-Appellant. Co. Ct. Appeals No. 82CA0417.

Filed: August 25, 1983

Judgment Reversed

Rainsford Winslow appeals the trial court's injunction which prevents him from "filing as plaintiff any further actions in the District Court . . . wherein he

appears pro se . . . ." We reverse the judgment of the trial court granting the permanent injunction because we hold that sole jurisdiction relative to this issue is vested in the Colorado Supreme Court.

Our Supreme Court's power to issue injunctions against pro se plaintiffs derives from and "is based upon Article VI, Section 2(1) of the Colorado Constitution which vests [the Supreme Court] with general superintending power over all inferior state courts." Board of County Commissioners v. Barday, 197 Colo. 519, 594 P.2d 1057 (1979). The authority to hear matters dealing with injunctions against abuse of the judicial process by a pro se litigant rests exclusively with the Supreme Court. See, e.g., Board of County Commissioners v. Howard, 640 P.2d 1128 (Colo. 1982); People v. Dunlap, 623 P.2d 408 (Colo. 1981); Board of County Commissioners v.

Barday, supra. Thus, we conclude that the trial court was without jurisdiction to issue the injunction.

Judgment reversed.

Opinion by JUDGE BERMAN

JUDGE SMITH and JUDGE VAN CISE, concur.

APPENDIX E

District Court Of Morgan County, Colorado

The Board Of County Commissioners Of Morgan County, Colorado, Petitioners, vs. Rainsford J. Winslow, Respondent. Tr. Ct. No. 82 CV 21.

Filed: March 3, 1982

Judgment

This matter having come on for hearing on February 25, 1982 on Petitioners' "Petition for Injunctive Relief" and Respondent's Petition and Response and the evidence offered in support of said Petition and the arguments of the parties, and having taken the matter under advisement to examine the pertinent records and files of this Court and the authorities

cited by the Petitioner, and now being fully advised, FINDS:

1. That the Respondent, who is not licensed to practice law in this State nor trained in the law, has appeared pro se before this Court on many occasions and has filed several actions as plaintiff, all except one being against the Petitioners as defendants; that his pleadings are usually extraordinarily voluminous and replete with irrelevant and immaterial matter; that the actions filed by Respondent except for the latest, have all been determined adversely to him; that this latest action appears to be an attempt to raise an issue which is res adjudicata by reason of the Court's judgment in one of Respondent's prior suits; that Respondent's actions and methods of procedure impose a heavey burden on the resources of this Court.

2. That Respondent's Response in this matter, which exemplifies his inclination to voluminosity and irrelevance, demonstrates a misunderstanding of the true issue of this proceeding and fails to show cause why the prayer of the petition should not be granted to the full extent possible.

3. That the unwarranted burden placed on the operation of this Court due to Respondent's actions and the resultant expense thereof are prejudicial to the interests of the taxpaying public; that where it is necessary to prohibit such an abuse of the judicial process within this Court, it is within the power and authority of this Court to prevent the further commission of the abuse and the concomitant injury to public rights and interests; that insofar as this Court is empowered to act, the granting of the requested injunction is justified and appropriate;

that this Court cannot enjoin the Respondent from appearing pro se to defend himself in actions against him without violating his constitutional rights and is limited to prohibiting him from filing further pro se actions as plaintiff or from proceeding pro se with litigation already filed by him.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Respondent be and he is enjoined and restrained from filing as plaintiff any further actions in the District Court in and for Morgan County, Colorado, wherein he appears pro se and from further appearing pro se in Civil Action No. 82 CV 20 in said Court and that he arrange for the appearance of duly licensed legal counsel in said action.

DONE this 3rd day of March, 1982.

BY THE COURT:

DEAN JOHNSON
District Judge

APPENDIX F

District Court Of Morgan County, Colorado

The Board Of County Commissioners Of Morgan County, Colorado, Petitioners, vs. Rainsford J. Winslow, Respondent. Tr. Ct. No. 82 CV 21.

Filed: April 2, 1982

Order

This matter having come on for hearing on Petitioner's Motion to Alter or Amend Judgment, and the Court, having considered said motion, FINDS that said motion is well taken and that the judgment in this case should be amended for the reason set forth in Petitioner's motion.

IT IS THEREFORE ORDERED that the judgment of March 3, 1982 be amended to read as follows:

"IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Respondent be and he is enjoined and restrained from filing any further actions or pleadings in the Dis-

trict Court in and for the County of Morgan Colorado, wherein he appears pro se and seeks affirmative relief, as contrasted from purely defensive action, and that he be and is further enjoined from appearing pro se in Civil Action No. 82 CV 20 in said Court and that he arrange for the appearance of duly licensed legal counsel in said action."

DONE THIS 2nd day of April, 1982.

BY THE COURT:

DEAN JOHNSON
District Judge